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January 3, 2005

TO: Each Supervisor

FROM: Thomas L. Garthwaite, MD  
Director and Chief Medical Officer

**SUBJECT: KING/DREW MEDICAL CENTER IMMEDIATE JEOPARDY**

I am writing to provide a summary of the actions taken by the Department of Health Services (DHS) to correct the deficiencies identified by the Centers for Medicare and Medicaid Services (CMS) regarding the participation of unarmed County Police in the management of assaultive patient behavior.

As you know, on December 17, 2004, CMS placed King/Drew Medical Center on Immediate Jeopardy status, due to what it believed was the imminent threat to patient health and safety, as a result of the availability and potential use of weapons, such as tasers, by Office of Public Safety (OPS) officers in the patient care setting and the failure of hospital staff to appropriately manage the clinical care of the patients involved. The facility has been unsuccessful in implementing sufficient corrective actions to abate the immediate jeopardy. As a result, on December 29, 2004, CMS informed the County of its preliminary decision to publish the required 15-day public notice formally terminating the hospital from the Medicare program, effective January 19, 2005. CMS has indicated it expects to publish this notice by January 5, 2005.

Termination from Medicare participation will prohibit the facility' from billing either the Medicare or Medicaid programs for patient care and will result in the loss of over \$200 million in public funding.

CMS has indicated that the hospital will have the opportunity to submit a written request, prior to the January 19 termination date, demonstrating corrections that have occurred and

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requesting that CMS conduct a resurvey in an effort to rescind the Immediate Jeopardy termination. It is the Department's intent to avail itself of this final opportunity to retain the hospital's participation in the Medicare program, and thus retain the attendant public funds.

The Department has been meeting continually with Navigant and the Department of Human Resources over the past several weeks to identify and implement the necessary corrective actions to show sufficient improvement and cause for CMS to conduct a resurvey and lift the termination. Below is a summary of the activities underway.

#### Management of Assaultive Patient Behavior

The primary areas of concern for CMS were the participation by unarmed OPS officers on the Clinical Behavioral Response Management Team and the failure of hospital staff to appropriately manage patient clinical care. This Team is comprised of physician and nursing staff, as well as unarmed OPS officers, who are trained the Management of Assaultive Behavior. The focus of the Team is to de-escalate disruptive patient behavior through counseling, administration of proper medication, clinical mediation techniques, and, as necessary, the application of restraints. OPS officers have historically participated on these Teams, under the direction of the clinical staff, to assist in the application of restraints. When the restraint code is called, the team, which is comprised of clinical staff and unarmed OPS officers, respond to the clinical area where the patient is located. Secondary OPS responders, with weapons, are available as back up in the event the patient commits a crime.

In the case of King/Drew Medical Center, CMS noted that clinical staff and OPS officers were unable to differentiate the role of the first and second OPS responders, that second responder OPS officers with weapons entered the clinical area, and that hospital staff appeared to overly and prematurely rely on armed OPS second responders to manage what should be handled as a clinical event.

As you know, CMS cited King/Drew Medical Center in May for the involvement of OPS officers and the use of tasers to manage assaultive patients. At that time, as part of its plan of correction, the Department revised the systemwide restraint policy to clarify and differentiate the roles and responsibilities of clinical staff and police. Additionally, Management of Assaultive Behavior training was given to all clinical and OPS staff who would be assigned to participate on restraint response teams, at King/Drew Medical Center, as well as the other four DHS hospitals. The plan of correction was accepted by CMS and on its resurvey in the fall CMS indicated that the clarification of the roles of unarmed and armed police responders was appropriate and that its concerns had been adequately addressed.

However, notwithstanding the policy revisions and the additional training, staff at King/Drew Medical Center failed to properly implement the new policy during the subsequent December 17 CMS survey.

The Department, Navigant, and OPS have taken a number of steps, outlined below, to address these concerns.

#### Policy Clarification and Hospital and OPS Staff Retraining

CMS' December 17 survey specifically noted problems in the implementation, understanding, and compliance by clinical and OPS staff of the hospital's policy for Clinical Behavioral Management Restraint Teams. Over the next month, DHS will be moving to remove unarmed OPS officers from the Restraint Teams, however, until that transition can be fully implemented, additional clarifications have been made to the policy and further education and training is occurring to ensure both DHS and OPS staff fully comply with the policy that had previously been accepted by CMS for management of disruptive patients.

As a result, the restraint team policy has been revised to more clearly define roles and responsibilities among its participants, as well as to stipulate that any direction given related to a shift in the patient's behavior from a clinical to a police matter must come from the assigned clinical leader.

Because the initial mock drills illustrated knowledge deficits in some very basic areas, rather than provide staff with a lengthy classroom session, the didactic training has been simplified and abbreviated to allow for a more hands-on approach to education and training.

The Department has provided additional training to all King/Drew Medical Center and OPS staff, using a nationally recognized Management of Assaultive Behavior curriculum. Additionally, further training is being done through mock restraint code drills that are taking place multiple times each day and on all shifts. Each drill is followed by a meeting with the participating staff to review performance and to provide further education and opportunity for improvement. Over the New Year's weekend, 15 mock drills and follow-up evaluation/learning sessions were held throughout the hospital.

It appears from reviewing the results of the mock drills that occurred over the weekend that this more interactive and focused approach to training has resulted in greater comprehension and compliance by both the hospital clinical staff and OPS officers.

Attached is a copy of the root causes analysis and recommended corrective actions developed and implemented by Navigant staff into the failure of staff to respond appropriately to the mock drills conducted by CMS.

### Staffing

As noted above, to address the concerns raised over participation of unarmed OPS officers in the management of volatile patients, the Department is moving to transition to a new clinical staff response model that utilizes psychiatric technicians, rather than unarmed OPS officers to assist in the de-escalation of assaultive behavior and the application of patient restraints. The Department has taken several steps to expedite the hiring and placing of appropriately trained psychiatric workers at King/Drew Medical Center, which are described below.

An existing class specification has been identified within the Department of Mental Health that encompasses the necessary skills and responsibilities to participate on the clinical restraint management teams and plans to recruit permanent staff to this position. There is an existing examination list with nine qualified individuals on it and the facility will be interviewing the candidates on this list.

However, the number of individuals on the certification list is not sufficient to meet the staffing demand at King/Drew Medical Center, so until such time as sufficient numbers of qualified staff can be identified and recruited, the Department will be hiring temporary clinical personnel through the nurse registry contracts to cover this clinical need. The Department has identified several nurse registry agencies that are able to immediately provide appropriately trained psychiatric staff. An amendment has been executed to one of the Department's existing nurse registry vendors to quickly begin bringing these specially trained psychiatric staff in to King/Drew Medical Center; the contractor has indicated it can begin placing appropriately trained staff at the hospital as soon as the week of January 3. Additionally, the Department will be placing an item on the January 18, 2005, Board agenda seeking approval of an amendment to the form nurse registry contracts to include the appropriate job classifications, in an attempt to identify as many workers possible in the needed categories.

The Department will be continuing to conduct regular mock drills and staff education to ensure full and consistent compliance with DHS policy, as well as moving forward to hire sufficient numbers of appropriately trained clinical staff to replace the participation of the unarmed OPS officers on the restraint team.

As I noted above, the Department expects to receive the official CMS notification of King/Drew Medical Center's termination from the Medicare program by January 5. The

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Department plans to request a resurvey in order to demonstrate that the necessary corrective actions have occurred and that the facility and OPS staff are fully in compliance with internal policies. Should CMS grant a resurvey, inspectors will return to the facility prior to January 19. If King/Drew Medical Center is successful in demonstrating it has corrected the problems and staff can demonstrate compliance with hospital policy, CMS will rescind the termination notice. If the hospital fails demonstrate the problems have been corrected, funding will be terminated effective January 19.

Please let me know if you have further questions.

TLG:ak

Attachment

c: Chief Administrative Officer  
County Counsel  
Executive Officer, Board of Supervisors  
Director of Personnel

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## **KDMC Code Nine Follow-up**

## Background

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- King Drew Medical Center (KDMC) has historically had issues related to restraint and seclusion, both in psychiatry and acute care areas.
- Concerns have been documented related to the use of weapons (pepper spray, batons) on patients, including tasers.
- KDMC has received multiple citations from both CMS & JCAHO related to restraint and seclusion of patients.
  - The areas cited are 482.13, 482.23, IM.6.10, PC.11.40, PC4.10
- Navigant Consulting, Inc. (NCI) took over the leadership of KDMC on November 1<sup>st</sup> 2004.
  - Navigant was to assess the Medical Center and prepare its recommendations over a 60 day period, resulting in a report due on 1/3/05.
  - During this period, two further JCAHO visits and one CMS visit have occurred.
- On November 9<sup>th</sup>, a Code Nine event occurred on a psychiatric unit, which resulted in the use of a weapon (taser) on the patient involved. This followed an earlier event on August 17<sup>th</sup> in Psychiatric Emergency Services (PES). In investigating the Nov 9<sup>th</sup> event, it was found that another event had occurred on Nov 7<sup>th</sup> in Emergency Room. (E.R.)
  - These occurrences were self-reported to CMS as required.
  - A review visit occurred on November 18<sup>th</sup>.

## Background

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- On December 17<sup>th</sup>, KDMC received notification that CMS was placing the institution on Immediate Jeopardy, following their review. They concluded that 482.13 was violated.
- CMS cited multiple incidence of failures, relating to the Code Nine events where tasers were used.
- These failures can be categorized into three areas: clinical, operational and OPS.
  - Clinical: failure to assess and document behaviors and interventions used, failure to evidence when healthcare team turned over the event to OPS, failure to evidence care of patients once taser was used.
  - Operational: failure to adequately investigate each use of taser against existing policies, failure to implement corrective action to OPS and clinical staff to ensure use of taser was not repeated, failure to implement MAB training for all facility staff, failure to implement corrective action to assure that medical staff are providing effective medication management.
  - OPS: Continued use of taser in response to Code 9 situations, failure to respond to codes without weapons, failure to adequately investigate use of tasers.



## Immediate Jeopardy

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- Nine specific corrective actions were to be instituted related to correcting the Immediate Jeopardy of Friday December 17<sup>th</sup>. These actions were to be completed within five calendar days (December 22nd).
- Included in the actions were the following:
  - Immediate reassignment of officers involved in the use of weapon (taser).
  - Immediate reassignment of any officer that cannot or will not function as a clinical member of the Code Nine response team.
  - Within five days if a Code Nine OPS member cannot function as part of the team, the team must be redefined to eliminate response by OPS.
  - All KDMC staff must adhere to the policies set forth in Policy Numbers: 03-225 & 03-107.
  - Education and training must be completed for staff throughout the entire facility, including PES and ER.
  - Identify all use of taser or other weapons within the last six months, and provide evidence of actions taken.
  - Identify when OPS personnel have been called for the application of restraints or behavior management situations for the past 6 months and provide evidence of all actions taken by both KDMC & OPS.

## **Immediate Jeopardy**

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- Continued
  - Initiate and conduct mock Code Nine drills monthly on each shift, and report these and all resultant actions to CDHS & CMS.
  - KDMC must submit to and successfully perform in unannounced Mock Code Nine drills conducted by CMS and or its agent CDHS.

## **Corrective Action Plan December 17<sup>th</sup> Contd.**

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- Agreement was reached with CMS, that due to the time of year, the Medical Center would send as many available employees as possible to MAB training during the dates of 12/20 and 12/23. During this period, over 500 staff from both psychiatric, PES, ED and inpatient acute units attended class.
- The Nursing Education Dept coordinated and provided these classes.

## **CMS Findings December 28<sup>th</sup>**

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- On Tuesday December 28<sup>th</sup>, CMS conducted a follow-up visit. As part of this visit, three mock Code Nine events were called.
  - These occurred in the following areas: Psychiatry Ward D at 4:45am, Psychiatry PES at 8:45 am & Inpatient unit 3A at 10:45am.
- The following general observations were articulated by CMS following these three events.
  - The Clinical Behavioral Management Policy was not followed. CMS indicated they did not have any issue with the policy as written in the corrective action plan related to the December 17<sup>th</sup> letter.
  - The OPS response was excessive, and unarmed officers did not remain outside the affected unit/area. Officers responded with a variety of weapons. The officers all had handcuffs which CMS considers a weapon.
  - The clinical team were unable to voice what steps should be taken prior to a Code Nine and during a Code Nine.

# Root Cause Analysis of December 28<sup>th</sup> events

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## Failure of OPS to respond appropriately to Code Nine calls.

- ***Evidenced by:***

- Arrival on to all three calls, with various states of weaponry.
- Multiple officers responding onto the units involved, without the back-up officers remaining outside the affected area.
- Verbalization that they were there to provide force.

- ***Causative Factors:***

- Updated policy (Dec 22nd) had not been shared with OPS force at KDMC. However, the carrying of weapons is not a new issue, this was not part of the updated policy.
- Training that occurred in week of 12-20 was not sufficient to change behaviors.

- ***Responsible Parties:***

- OPS leadership, hospital and DHS leadership.
- OPS staff.

- ***Resolution:***

- Involvement in Mock Code Nine's around the clock. (implemented 12/29)
- Attendance of Navigant leadership at each change of shift report (06:00 & 18:00 hrs) for OPS at KDMC. (implemented 12/30)
- One on one education as required. (implemented 12/30)
- Regular feedback to OPS leadership (Chief Turner). (implemented 12/29)
- Regular feedback to DHS leadership. (ongoing)
- Ensure that OPS at KDMC have access to updated policy and MAB instruction sheet. (completed 12/30)

# Root Cause Analysis of December 28<sup>th</sup> events

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**Failure of clinical staff involved to verbalize correctly the actions prior to and during a Code Nine situation.**

- ***Evidenced by:***

- Lack of understanding what a Code Nine is.
- Inability to verbalize the steps taken to de-escalate a patient if required.
- Inability to clearly verbalize the steps taken prior to placing patient in restraints & how this occurs.
- Inability to verbalize clearly the causative factor of an escalation from Code Nine to a police action.

- ***Causative Factors:***

- Content of Management of Aggressive Behavior (MAB) class, while appropriate, did not meet the needs of the KDMC staff. Content is didactic in nature, and its language is too theoretical for the staff. This does not match their learning style.
- Mock Code Nines that have been held by DHS, have not met the needs of the institution. Although these codes have occurred regularly, clinical involvement from DHS was limited. The mock Code 9s primarily had an audit and compliance focus. Prior to week of 12-20, mock codes were limited to the psychiatric areas & ED.
- Culturally, the clinical staff have come to rely on OPS to provide any form of de-escalation. As a result, once a Code Nine is called the clinical staff expect OPS to respond and take over the situation. (This has been confirmed on the current mock Code Nine drills being completed)

- ***Responsible Parties:***

- KDMC Leadership, Education Department, DHS.

King/Drew Medical Center

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## Root Cause Analysis of December 28<sup>th</sup> events

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- ***Resolution:***

- Simplify the content of class, by making it more directive and behavioral in nature. Increase the role playing in the class to be at least 50% of class time. (Implemented 1/3/05)
- Develop and institute “Management of Aggressive Behaviors and Code Nine Instruction Sheet”. This is a question and answer format for all staff members in simple language. The content is based on the policy (completed 12/29).
- Ensure that all staff members having contact with patients receive updated training prior to January 31<sup>st</sup>. This includes all clinical staff, Environment Services, Dietary, and trades staff.
- Have all staff members receive updated policy and instruction sheet at time of paycheck distribution or directly from managers, and sign to acknowledge receipt and understanding. (12/30 and ongoing)
- Hold mock Code Nines around the clock in both Psychiatric and inpatient acute care areas including the ED. (Ongoing) See Attachment A
- During this process, educate all staff and complete debriefing of situation by having team members and observers verbalize their understanding of the situation, what occurs, potential issues etc. (Ongoing)
- Ensure that all staff understand the need to review and update plan of care, when an aggressive behavior incident has occurred. (Ongoing)

## **Root Cause Analysis of December 28<sup>th</sup> events**

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- ***Resolution***

- Have staff describe what a Code Nine is, and correct the perception immediately that OPS has the primary role in this code. (Ongoing)
- Have staff repeat and restate during all mock Code Nine situations, the steps necessary to complete prior to restraining a patient. (Ongoing)
- Emphasize the consequences of not documenting and reporting events. (Ongoing)
- Reinforce with all staff members that failure to comply with policies and procedures will result in progressive discipline including termination if deemed appropriate. (Ongoing)



## **Root Cause Analysis of December 28<sup>th</sup> events**

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### **Identified long term issues:**

- CMS recommended that all staff members having direct contact with patients receive specialized training for the management of aggressive behavior. (July 2004)
- The original plan of correction decision was to provide classes for those who worked in the psychiatric area and the Emergency room only.
  - All other clinical staff were to receive training over the following months.
  - The urgency of scheduling and attending this class was not emphasized.
  - There was not a clear understanding and conflicting messages from CMS relating to what categories of staff must receive training. This has been clarified.
- Lack of clinical and educative focus on mock Code drills.
  - Previous drills have been completed with an audit and compliance foci. There was not a clear understanding of the need for an educative focus also.
- Composition of Code 9 team and response to Code 9s.
  - Inconsistent response of physicians to Code 9 situations, lead to increased staff reliance on OPS response.
  - OPS involvement in clinical management of aggressive behaviors is not within community standards.

## Root Cause Analysis of December 28<sup>th</sup> events

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- ***Resolution:***

- Provide training for all identified staff. (complete by 1/31/05)
- All current and future mock Code 9 drills will have a clinical and educative approach. (Implemented & ongoing)
- Physician leadership met with Medical Staff Leadership to reinforce the expectation that consistent response is mandatory. (12/28 & 12/29, ongoing)
- Planned replacement of OPS response to clinical events, with the addition of Psychiatric technicians to staff of KDMC. These positions will be 24/7, throughout the Psychiatric area. These positions will also respond to Code 9 calls throughout the facility. An exam is open, and Navigant leadership will be scheduling interviews with the qualified applicants week of 1/3/05. In addition DHS is contracting with a registry to provide qualified staff as an interim measure. All new staff members will undergo extensive training relative to institutional policies and procedures. (Ongoing)

# Attachment A

	Date	Date	Date
Unit	Day Shift	Eve Shift	Night Shift
PES	1/1/2005		1/1/2005
Ward D		12/30/2004	
Ward F	12/31/04, 1/2/05		12/30/2004
ED		12/30/2004	
ICU A	12/31/2004		
ICU B			
Trauma		1/2/05	
L&D			
2C			
3A	12/31/2004	12/29/2004	
3C		1/1/2005	
4A			
4B	1/1/2005		
CCU			1/2/2005
PICU			
5G		1/2/2005	
OR			
PAR			